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Chair: Mr. Mac-Donald ..... (Suriname)

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The meeting was called to order at 3.10 p.m.

Agenda item 69: Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (*continued*)

Draft resolution A/C.3/67/L.25: Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto

1. **The Chair** drew attention to the statement of programme budget implications in connection with the draft resolution contained in document A/C.3/67/L.30.

2. **Ms. Morton** (New Zealand), introducing the draft resolution, said that Afghanistan, Albania, Argentina, Australia, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, the Czech Republic, Denmark, Egypt, Estonia, Finland, France, Greece, Guinea-Bissau, Hungary, Iceland, India, Israel, Italy, Jamaica, Lithuania, Luxembourg, Malaysia, Myanmar, the Netherlands, Nicaragua, Niger, Nigeria, Paraguay, the Philippines, Poland, the Republic of Korea, Slovenia, South Africa, Spain, Swaziland, Thailand, Turkey, Uganda, Ukraine and Uruguay had joined the sponsors.

3. Some changes had been made to the text. In the second preambular paragraph, the phrases "one hundred and twenty-five" and "seventy-five" had been changed to "one hundred and twenty-six" and "seventy-six", respectively, in order to reflect changes in the numbers of countries that had ratified the Convention and the Optional Protocol. In paragraph 4, the word "invites" had been replaced with the word "encourages". Most importantly, in paragraph 5, the year "2013" had been changed to "2014". Pushing back all additional meeting time to 2014 would eliminate any programme budget implications for the current 2012-2013 biennium.

4. **Mr. Gustafik** (Secretary of the Committee) drew attention to paragraphs 11 and 14 of document A/C.3/67/L.30, which stated that all requirements for the year 2014 would be included in the proposed programme budget for the biennium 2014-2015. As a result of the oral revisions to the draft resolution, no additional resources would be required for the budget for the current 2012-2013 biennium. Consequently, no statement of programme budget implications would be submitted to the Advisory Committee on Administrative and Budgetary Questions in connection with draft resolution A/C.3/67/L.25.

5. He announced that Armenia, Austria, Bangladesh, Belize, Brazil, Burkina Faso, Burundi, Chile, Guatemala, Kyrgyzstan, Montenegro, Namibia, Panama, Papua New Guinea, Peru, San Marino, Serbia, Sierra Leone, Slovakia, Suriname and Tunisia had joined the sponsors.

6. **Ms. Robl** (United States of America) said that her country had signed the Convention on the Rights of Persons with Disabilities in July 2009 and was working to achieve ratification of that Convention by its Senate. Treaty bodies played a critical role in reviewing implementation by States Parties of their obligations under international human rights treaties. However, owing to financial constraints imposed by the current economic situation, the United States was forced to distance itself from the consensus on paragraphs 5 and 6 of the draft resolution calling for additional meeting time and pre-sessional working time. Her delegation emphasized the need to assess and enhance the effectiveness of all treaty bodies, including through treaty body strengthening processes.

7. *Draft resolution A/C.3/67/L.25, as orally revised, was adopted.*

(a) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Draft resolution A/C.3/67/L.44/Rev. 1: Moratorium on the Use of the Death Penalty

8. **The Chair** said that the draft resolution contained no programme budget implications.

9. **Ms. Curkovic** (Croatia), introducing the draft resolution, said that Madagascar, the Russian Federation, Rwanda, South Africa, Tuvalu and the Bolivarian Republic of Venezuela had joined the sponsors.

10. The sponsors had redrafted the 2010 resolution to better bridge the gap between States that had already imposed a moratorium on the death penalty and States that still implemented it. In addition to calling on all Member States to impose a moratorium on the death penalty, the draft resolution called on those States that did not do so to respect the minimum standards, as set out in the annex to Economic and Social Council

resolution 1984/50, make available relevant information with regard to the use of the death penalty, progressively restrict the use of the death penalty and not impose capital punishment for offences committed by persons below 18 years of age and pregnant women, and consider acceding to or ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. The text of the draft resolution was the result of a number of compromises made by the sponsors during informal discussions, and she was disappointed to see so many draft amendments tabled.

11. **Mr. Gustafik** (Secretary of the Committee) said that the Dominican Republic wished to join the sponsors.

12. **Mr. Selim** (Egypt) said that the record of the decade-long original negotiations over article 6 of the International Covenant on Civil and Political Rights demonstrated clearly that when it came to the death penalty, the emphasis of the drafters had been on due process rather than abolition. While stressing the sanctity of the right to life, article 6 of the Covenant did not prohibit imposition of the death penalty, but rather provided that it should subject to certain conditions. For example, it stipulated that the death penalty should not be imposed on persons below 18 years of age or pregnant women. That implied that it could be applied to adults in full possession of their faculties who committed serious crimes. That same article specifically cited the Convention on the Prevention and Punishment of the Crime of Genocide, which stipulated that contracting parties should provide effective penalties for persons guilty of genocide.

13. In reality, the draft resolution did not aim at a moratorium on the death penalty but rather at its complete abolition, and it implied that the death penalty was being used for political purposes by the States that retained it. Its calls on States to abolish and to refrain from reintroducing the death penalty violated the principle of non-interference in internal affairs. In its very first paragraph the draft resolution expressed "deep concern about the continued application of the death penalty" as though capital punishment itself were a crime. It encouraged "national and international debates on the obligations of States pertaining to the use of the death penalty" without noting the cases in which national debates and referendums had resulted in its maintenance or even reintroduction.

14. Despite the claims of the main sponsors, no significant compromises had been made in the informal negotiations. He appreciated the few sponsors who had gone out of their way to compromise, but in general there was no sign of the will necessary for genuine dialogue to achieve cross-regional support for the draft resolution. All the proposals made by the retentionist States had been rejected on the grounds of selectivity, when in fact they had merely been upholding the principles of the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Charter of the United Nations. The draft resolution reflected the needs of certain social settings and ignored the global diversity of legal social and cultural traditions. Those States that had abolished the death penalty, those that had applied a moratorium, and those that retained the death penalty were all acting in accordance with the International Covenant on Civil and Political Rights. The abolitionist side had no right to impose its viewpoint by claiming that capital punishment did not deter serious crimes such as genocide, and ignoring the fact that victims of such serious crimes had suffered an injustice that was irreversible and irreparable. The purpose of the draft amendments being proposed to the draft resolution was to ensure a balance between the opposing points of view.

15. **Ms. Williams** (Grenada) said that her country's moratorium on the death penalty, which had been in place since 1978, reflected its commitment to human rights, the rule of law and such international instruments as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the American Convention on Human Rights. However, her delegation would vote against the draft resolution because it believed that any resolution of disagreements on contentious issues such as capital punishment and the right to life must be the product of conscious voluntary decisions, and not impositions from outside.

16. **Ms. Li** Xiaomei (China) said that the decision whether or not to permit use of the death penalty was for every country to decide based on its cultural traditions and specific national circumstances. The draft resolution ran counter to the principle of non-interference in internal affairs enshrined in the Charter of the United Nations. The International Covenant on Civil and Political Rights provided that the death penalty could be used in cases of the most serious

crimes. The key was to exercise caution in the use of the death penalty and ensure the rights of defendants. She urged the sponsors of the draft resolution to respect the judicial traditions of other countries and stop politicizing the issue. Her country would vote against the draft resolution.

17. **The Chair** drew attention to the draft amendments to draft resolution A/C.3/67/L.44/Rev.1 contained in documents A/C.3/67/L.62 to 66, which contained no programme budget implications. He recalled that the Committee had agreed to take action on the proposed amendments in the order in which they had been submitted.

18. **Mr. Selim** (Egypt), introducing the draft amendment contained in document A/C.3/67/L.62 on behalf also of Antigua and Barbuda, Botswana, Brunei Darussalam, Eritrea, Kuwait, Malaysia, Singapore, Uganda and Viet Nam, said that the draft amendment reaffirmed the principle of the sovereignty of Member States as enshrined in the Charter of United Nations. The claims that the draft amendment undermined the draft resolution were as flawed as the draft resolution itself. The argument that the draft amendment was selective because the first preambular paragraph already made reference to the Charter did not explain why the draft resolution should not "reaffirm" the principle of sovereignty instead of merely being "guided", or why it should not urge Member States to fulfil their obligations under international human rights instruments. During the informal negotiations, the sponsors of the draft resolution refused even to consider the language contained in the draft amendments even though that language had been redrafted and diluted compared to similar draft amendments presented in previous sessions. He urged Member States to vote in favour of the draft amendment.

19. **Mr. Gustafik** (Secretary of the Committee) said that Sudan wished to join the sponsors of the draft amendment.

20. **Ms. Kok** Li Peng (Singapore) said that the debate was not about the merits of capital punishment but about the rights of States as enshrined in the Charter. She expressed appreciation for the genuine efforts of some of the sponsors of the draft resolution, but noted that other sponsors had not been as willing to engage in a genuine dialogue, but rather continued to insist that the issue of sovereignty was addressed in the first preambular paragraph when the substance of the draft resolution showed that that the sponsors were paying mere lip service to the Charter. She urged Member States to support the draft amendment, which recognized the balance between sovereignty and the fulfilment by States of their obligations under international law.

21. **Mr. Butt** (Pakistan) said that under the Charter, international law and the principle of sovereignty, a country only had an obligation to implement commitments voluntarily accepted by virtue of having become party to a particular treaty or convention. Calls to abide by the aspirations of a particular group of countries were not legally binding. He urged all Member States to vote in favour of the draft amendment in order to uphold the principle of sovereignty in international law.

22. **Mr. Makanga** (Gabon) said that the affirmation of the principle of sovereignty was already covered in the first preambular paragraph. Article 10 of the Charter indicated clearly that General Assembly resolutions were not binding on Member States. The draft resolution did not constitute interference in the internal affairs of States. It merely welcomed the steps taken by some Member States to reduce the number of offences for which the death penalty could be imposed and the decisions made by an increasing number of States, at all levels of Government, to apply a moratorium on executions, followed in many cases by the abolition of the death penalty. The goal of the draft amendment was to undermine the letter and spirit of the draft resolution, and she invited all Member States to vote against it.

23. **Mr. de Antueno** (Argentina) said that the reference to the sovereign right of States contained in the draft amendment was redundant, because the principle of sovereignty was already implicit in the reference to the Charter in the first preambular paragraph. The Charter made clear that General Assembly resolutions were recommendations and were not binding. There also appeared to be a contradiction between references in the draft amendment to both the principle of the sovereign right of States and the obligations of States under international human rights instruments. At the 1993 World Conference on Human Rights, States had agreed that the promotion and protection of human rights was a legitimate concern of the international community, and that when a State ratified human rights instruments it was obligated to

adopt the measures necessary to ensure implementation of that instrument's provisions. The draft resolution's support for a moratorium on the death penalty did not threaten or undermine the sovereignty of States. It merely welcomed the steps taken by some Member States to reduce the number of offences for which the death penalty may be imposed and the decisions made by an increasing number of States, at all levels of Government, to apply a moratorium on executions, followed in many cases by the abolition of the death penalty. The draft amendment ran counter to the purposes of the draft resolution, and he urged Member States to vote against it.

24. *A recorded vote was taken on the draft amendment contained in A/C.3/67/L.62.*

In favour:

Algeria, Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Bolivia (Plurinational State of), Botswana, Brunei Darussalam, Burundi, Cameroon, China, Comoros, Congo, Cuba, Democratic People's Republic of Korea, Djibouti, Egypt, Eritrea, Ethiopia, Grenada, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libya, Malaysia, Myanmar, Namibia, Nicaragua, Oman, Pakistan, Papua New Guinea, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Mozambique, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Somalia, South Sudan, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu.

Abstaining:

Belize, Benin, Bhutan, Burkina Faso, Democratic Republic of the Congo, El Salvador, Fiji, Ghana, Guatemala, Guinea, Kazakhstan, Kenya, Kyrgyzstan, Lebanon, Liberia, Malawi, Maldives, Mauritania, Morocco, Nauru, Niger, Nigeria, Republic of Korea, Senegal, Sierra Leone, Solomon Islands, South Africa, United Republic of Tanzania, Zambia.

25. *The draft amendment contained in document A/C.3/67/L.62 was rejected by 84 votes to 63, with 29 abstentions.*

26. **Mr. Elbahi** (Sudan) said that each time that the resolution on a moratorium on the death penalty had been submitted to the Third Committee, it had become more and more evident that its proponents had failed in their campaign to turn the question into a human rights issue. It was a question of justice on which there was no international consensus and which every State had the right to decide for itself in accordance with the principle of sovereignty as enshrined in the Charter of the United Nations. The attempt to impose the views of certain States through a Third Committee resolution ran counter to the Charter and other international instruments. The choice by a country to abolish, suspend or maintain the death penalty should be respected, it being understood that the penalty should be imposed only for serious crimes and after a transparent legal process that ensured protection of the rights of the parties involved. The issue should not be held hostage to politicization and attempts to create an artificial consensus. His delegation had shown flexibility during informal negotiations, but the draft resolution's sponsors had not reciprocated. For that reason, his delegation had voted in favour of the draft amendment.

27. **Ms. Kok** Li Peng (Singapore), introducing the draft amendment contained in document A/C.3/67/L.53

on behalf also of Antigua and Barbuda, Botswana, Brunei Darussalam, China, Egypt, the Islamic Republic of Iran, Malaysia, Uganda and Viet Nam, said that over half the Member States of the United Nations retained the death penalty in their legal systems. It was the sovereign right of every State to abolish, place a moratorium on, or retain the death penalty, taking into account their obligations under international law. Although some of the supporters of the draft resolution had exhibited flexibility, a select group of them had not, and the result had been an unbalanced resolution. She urged all Member States who respected tolerance, diversity and freedom of expression to vote in favour of the draft amendment.

28. **Mr. Makriyiannis** (Cyprus) said that both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights had established an incontestable link between human rights and criminal justice and articulated a number of protections for individuals subject to criminal justice systems. The draft amendment would divert focus from the human rights dimensions of the use of the death penalty. Although the International Covenant on Civil and Political Rights did not expressly prohibit use of the death penalty, its article 6 provided that nothing in it should be invoked to delay or to prevent the abolition of capital punishment by any State Party to the Covenant. Nearly all Member States, by ratifying the Convention on the Rights the Child, had accepted a restriction on the execution of child offenders. In 1984, the Economic and Social Council had adopted safeguards guaranteeing protection of the rights of those facing the death penalty that had also been endorsed without a vote by the General Assembly. The Council had adopted further resolutions on implementation of those safeguards in 1989 and 1996. The draft amendment was not consistent with the focus of the draft resolution, and he called on all Member States to vote against it.

29. **Mr. Nina** (Albania) said that both the Human Rights Council and the General Assembly had adopted resolutions calling for a moratorium on the death penalty with a view to its abolition. While his country recognized the sovereign right of countries to develop their own legal systems in accordance with international law, that principle alone did not provide an exhaustive framework of the prerogatives and obligations of State that were relevant to the draft resolution. Inclusion of the language of the draft amendment would therefore upset the balance of the draft resolution; his delegation would vote against it.

30. **Mr. Selim** (Egypt) said that the articles of the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights that were being cited as arguments against the draft amendment were actually arguments in favour of it. The draft amendment reaffirmed the international legal framework and in no way undermined any obligations under international instruments. He called on all Member States to respect their international obligations in an objective manner.

31. **Mr. Kumar** (India) said that each State had a sovereign right to develop its own legal system. In addition, article 6, paragraph 2, of the International Covenant on Civil and Political Rights and subsequent general comments of the Human Rights Committee on capital punishment spoke only of the desirability of the abolition of the death penalty. The draft resolution failed to recognize those basic principles, and his delegation therefore would be voting in favour of the draft amendment.

32. **Mr. Butt** (Pakistan) said that although he acknowledged that his statement would not have any impact on the voting, he wished to note that the current debate was the first time he had heard some of his colleagues who were opposed to the draft amendment recognize the sovereign right of all countries to develop their own legal systems. While safeguards in implementation of the death penalty were a human rights issue, the penalty itself was not. The General Assembly and Human Rights Council resolutions that had been cited in opposition to the draft amendment had to do with safeguards in implementation of the death penalty, not its abolition.

33. *A recorded vote was taken on the draft amendment contained in A/C.3/67/L.63.*

In favour:

Algeria, Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Botswana, Brunei Darussalam, Cameroon, China, Comoros, Congo, Cuba, Democratic People's Republic of Korea, Djibouti, Egypt, Eritrea, Ethiopia, Grenada, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libya, Malawi, Malaysia, Myanmar, Nicaragua, Oman, Pakistan, Papua

New Guinea, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, South Sudan, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Mozambique, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Belize, Benin, Bhutan, Bolivia (Plurinational State of), Burkina Faso, Burundi, Democratic Republic of the Congo, El Salvador, Fiji, Ghana, Guatemala, Guinea, Kazakhstan, Kenya, Lebanon, Liberia, Maldives, Mauritania, Morocco, Namibia, Nauru, Niger, Nigeria, Republic of Korea, Senegal, Sierra Leone, Solomon Islands, South Africa, Tajikistan, United Republic of Tanzania, Zambia.

34. *The draft amendment contained in document A/C.3/67/L.63 was rejected by 83 votes to 61, with 31 abstentions.*

Draft amendment contained in document A/C.3/67/L.64

35. **The Chair** said that he had been advised that the amendment to the draft resolution had no programme budget implications.

36. **Mr. Thomas** (Antigua and Barbuda), introducing the draft amendment on behalf of its sponsors, Botswana, Brunei Darussalam, Egypt, Malaysia, Singapore, Uganda and Viet Nam, said that they proposed replacing paragraph 4 (b) with the following text: "To make available, as appropriate, information with regard to their use of the death penalty, which can contribute to possible informed and transparent national debates". While providing information such as the number of prisoners on death row or of executions carried out undeniably contributed to national discussion on the moratorium on the use of the death penalty, debate could not be based solely on statistics and international obligations but on information covering all relevant legal, social, economic and political aspects of the issue. Without the amendment, the paragraph did not take into consideration national contexts for making such information available and completely disregarded national legislation, confidentiality principles, judicial discretion and other customary international law safeguards. The language had been proposed during informal negotiations, but the sponsors of the draft resolution had refused even to consider it. He therefore urged Member States to support the amendment.

37. **Ms. Ribeiro** (Brazil), speaking in explanation of vote before the voting, said that the draft resolution to be voted on (A/C.3/67/L.44/Rev.1) contained a number of new elements reflecting the positive global trend towards abolition of the death penalty. Some 150 Member States had abolished or introduced a moratorium on the death penalty; the resolution must therefore be stronger than the one adopted in 2010 as international human rights law developed in response to new global realities. Ultimately, the draft resolution spoke to the fundamental issue of the right to life. Member States must ask themselves how much progress had been made since the adoption of General Assembly resolution 28/57. The United Nations called on Member States to be transparent regarding legislation on and implementation of the death penalty; making such information public was a fundamental safeguard of due process and allowed for accurate assessments of whether such safeguards were respected, promoting open international dialogue on capital punishment. As Member States and signatories of core international human rights instruments, it was important not to shy away from robust engagement on issues. Brazil would vote against the proposed amendment, which, retaining same language of the

resolution adopted at the sixty-fifth session, was a step backwards.

38. **Ms. Loew** (Switzerland), speaking in explanation of vote before the voting, said that the elements added to paragraph 4 (b) of the draft resolution reflected an important and coherent progression compared to the language in General Assembly resolution 65/206. The criteria of transparency in the use of capital punishment was one of the fundamental legal safeguards against the arbitrary deprivation of life; ensuring that such guarantees were respected was possible only if all relevant information was publicly accessible. For more than 20 years, the United Nations and its special procedures had been calling on Member States to provide details on all aspects related to capital punishment, which would promote more effective and substantial debates, both nationally and internationally. For those reasons, Switzerland firmly supported the paragraph as it appeared in the draft resolution contained in A/C.3/67/L.44/Rev.1 and would vote against the amendment and other oral revisions presented in the meeting.

39. *A recorded vote was taken on draft amendment A/C.3/67/L.64, as orally amended.*

In favour:

Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Bolivia (Plurinational State of), Botswana, Brunei Darussalam, Burundi, Congo, Cuba, Democratic People's Republic of Korea, Egypt, Ethiopia, Grenada, Guyana, India, Iraq, Jamaica, Japan, Kazakhstan, Kuwait, Lao People's Democratic Republic, Libya, Malawi, Malaysia, Myanmar, Namibia, Nicaragua, Oman, Pakistan, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United States of America, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Mozambique, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Algeria, Belize, Benin, Bhutan, Burkina Faso, China, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, El Salvador, Fiji, Ghana, Guatemala, Guinea, Indonesia, Jordan, Kenya, Kyrgyzstan, Lebanon, Lesotho, Liberia, Maldives, Mauritania, Morocco, Nauru, Niger, Nigeria, Republic of Korea, Senegal, Sierra Leone, Solomon Islands, South Africa, South Sudan, Tajikistan, Thailand, United Republic of Tanzania, Zambia.

40. *Draft amendment A/C.3/67/L.64 was rejected by 80 votes to 54, with 37 abstentions.*

Draft amendment contained in A/C.3/67/L.65

41. **The Chair** said that he had been advised that the amendment to the draft resolution had no programme budget implications.

42. **Ms. Boissiere** (Trinidad and Tobago), introducing the draft amendment on behalf of its sponsors, Antigua and Barbuda, Botswana, Brunei Darussalam, Egypt, Malaysia, Singapore, Uganda and Viet Nam, said that while her delegation appreciated the efforts made by the main sponsors of the draft resolution to engage in discussion on the issue, it regretted that many of the fundamental concerns of retentionist States had not been addressed. Trinidad and Tobago held firmly to the view that capital punishment was a criminal justice matter that fell within the national jurisdiction of individual and sovereign States. Moreover, its application was not in violation of any existing norm of international law; to the contrary, it was quite

consistent with article 6 of the International Covenant on Civil and Political Rights. Many retentiontist States applied the death penalty only for the most serious crimes and in strict compliance with due process, in keeping with international legal obligations and the rule of law. The resolution should therefore take such situations into account to reflect objective reality and an appropriately balanced text. There being no international consensus on a moratorium on or the abolition of the death penalty, she hoped that Member States would accept the amendment as both balanced and legitimate and, accordingly, vote in favour.

43. **Mr. Ntwaagae** (Botswana) said that while everyone had the right to life, it was the duty of States to respect the right to life in line with the Universal Declaration of Human Rights and all relevant instruments. Though acknowledging that a number of States had exercised their sovereign right to abolish or impose a moratorium on capital punishment, for many retentionist States, like Botswana, the death penalty was a criminal justice issue, whose imposition was restricted to the most serious crimes. Recognizing the obligation of retentionist States to respect due process and exhaust all legal remedies, Botswana saw merit in including the draft amendment in the draft resolution as it highlighted the strict limitations imposed on the application of the death penalty. Botswana would therefore vote in favour of the amendment.

44. **Ms. Morton** (New Zealand), speaking in explanation of vote before the voting, said that the proposed amendment was contrary to the object and purpose of the draft resolution and drew on parts of article 6, paragraph 2, of the Covenant, which was, however, reaffirmed in full in the second preambular paragraph of the draft resolution. Moreover, the main sponsors of the resolution had taken into account comments from Member States wishing to remove aspects of the text that contained specific references to international human rights instruments. Her delegation would therefore vote against the amendment.

45. **Mr. de Léon Huerta** (Mexico), speaking in explanation of vote before the voting, said that it would seem that the amendment sought to indicate that the death penalty was allowed under the Covenant. That was clearly not the case, as stipulated in its article 6, paragraph 6. Furthermore, all specific references to provisions law had been avoided. His delegation would therefore vote against the draft amendment and urged others to do likewise.

46. *A recorded vote was taken on draft amendment A/C.3/67/L.65.*

In favour:

Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Botswana, Brunei Darussalam, Burundi, Cameroon, China, Cuba, Democratic People's Republic of Korea, Egypt, Ethiopia, Grenada, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libya, Malaysia, Myanmar, Oman, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Mozambique, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of).

Abstaining:

Algeria, Belize, Benin, Bhutan, Burkina Faso, Comoros, Congo, Democratic Republic of the Congo, Djibouti, El Salvador, Fiji, Ghana, Guatemala, Guinea, Kazakhstan, Kenya,

Lebanon, Liberia, Malawi, Maldives, Mauritania, Morocco, Namibia, Nauru, Niger, Nigeria, Republic of Korea, Senegal, Sierra Leone, Solomon Islands, South Africa, South Sudan, Tajikistan, United Republic of Tanzania, Zambia.

47. *Draft amendment A/C.3/67/L.65 was rejected by 86 votes to 53, with 35 abstentions.*

Draft amendment contained in A/C.3/67/L.66

48. **The Chair** said that he had been advised that the amendment to the draft resolution had no programme budget implications.

49. **Mr. Ntwaagae** (Botswana), introducing the draft amendment on behalf of its sponsors, Antigua and Barbuda, Egypt, Malaysia, Singapore, Uganda and Viet Nam, said that they proposed that the following paragraph should be inserted before paragraph 4 (e): "To comply with their obligations under relevant provisions of international human rights instruments, and to pay due regard to the provisions contained in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights and articles 37 and 40 of the Convention on the Rights of the Child while bearing in mind relevant international safeguards and guarantees, including the right to seek pardon or commutation of sentence." The standards of international human rights law sought to protect those facing the death penalty, defining Member States' obligations regarding due process and fair trials and their importance was reaffirmed in resolutions of the Human Rights Council and the General Assembly. However paragraph 4 (a) of the draft resolution, while ignoring those legal provisions, called upon Member States to comply with Economic and Social Council resolution 1984/50. The amendment had been rejected outright by the main sponsors of the draft resolution on the grounds that it was selective in nature, although they had shown selectivity by including only the subset of safeguards contained in resolution 1984/50. The amendment aimed to ensure a comprehensive and balanced reflection of the international legal framework; the inclusion of references to relevant and widely agreed international instruments should thus be equally acceptable to the main sponsors. He hoped that they would consider the draft amendment for its merit; it was not an attempt to present arguments in favour of or against the death penalty, but to ensure balance and compliance with obligations under international law.

50. **Mr. Gustafik** (Secretary of the Committee) announced that Brunei Darussalam had joined the list of sponsors of the draft amendment.

51. **Mr. Selim** (Egypt) said that one of the cornerstones of international debate called for by the main sponsors of the draft resolution was a discussion of the safeguards on which justice rested that were contained in the Covenant and in the Convention on the Rights of the Child. Though the main sponsors of the draft resolution repeated that those texts were reaffirmed in the draft resolution, the current draft resolution referred selectively to one Economic and Social Council resolution only and systematically ignored the international legal framework that the draft amendment attempted to include. Egypt respected its obligations under the Covenant and the Convention and would therefore support the proposed amendment without politicizing it.

52. **Mr. Kumar** (India), speaking in explanation of vote before the voting, said that the draft resolution contained in A/C.3/67/L.44/Rev.1 did not take cognisance of the fact that the death penalty was not prohibited under international law and consequently failed to place the requisite emphasis on the procedural safeguards as laid out in the Covenant. His delegation would consequently vote in favour of the draft amendment, which introduced the necessary balance in the resolution.

53. **Ms. Ivanović** (Serbia), speaking in explanation of vote before the voting, said that the draft resolution already referred to and reaffirmed the Covenant and the Convention, as a whole, in the second preambular paragraph. Any selectivity by singling out specific paragraphs of those instruments must be avoided. Furthermore, paragraph 4 (a) already included a reference to international standards and safeguards, citing explicitly Economic and Social Council resolution 1984/50. Any additional reference to the same would not add any value to the draft resolution. Her delegation thus found the draft amendment redundant and would vote against it.

54. **Mr. Zvachula** (Federated States of Micronesia), speaking in explanation of vote before the voting, recalled that the original draft resolution had included a preambular paragraph containing a specific reference to the Convention on the Rights of the Child; the main sponsors had removed it because of concerns raised during negotiations. He concurred that the draft

resolution already had references to the relevant instruments and said that adding another reference would add no value to the draft. The proposed amendment was selective and contrary to the spirit and purpose of the resolution. His delegation would therefore vote against it.

55. *A recorded vote was taken on draft amendment A/C.3/67/L.66.*

In favour:

Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Botswana, Brunei Darussalam, Burundi, Cameroon, Congo, Cuba, Democratic People's Republic of Korea, Egypt, Eritrea, Ethiopia, Grenada, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libya, Malaysia, Myanmar, Namibia, Oman, Pakistan, Papua New Guinea, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Central African Republic, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Mozambique, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of).

Abstaining:

Algeria, Belize, Benin, Bhutan, Burkina Faso, China, Democratic Republic of the Congo, Djibouti, El Salvador, Fiji, Ghana, Guatemala, Guinea, Kazakhstan, Kenya, Kyrgyzstan, Lebanon, Liberia, Malawi, Maldives, Mauritania, Morocco, Nauru, Niger, Nigeria, Republic of Korea, Senegal, Sierra Leone, Solomon Islands, South Africa, South Sudan, Tajikistan, United Republic of Tanzania, United States of America, Zambia.

56. *Draft amendment A/C.3/67/L.66 was rejected by 85 votes to 55, with 35 abstentions.*

57. **Mr. Ntwaagae** (Botswana) expressed disappointment at the continued rejection of draft amendments, which had aimed to produce a balanced text reflecting the views of both abolitionist and retentionist States. The amendments had not been proposed with the intent to change positions on the death penalty, but were born of the realization that the draft resolution did not reflect proposals put forward during consultations. However, the rejection of every one of the amendments had come as no surprise to their sponsors; it was a clear illustration of the main sponsors' desire for a one-sided resolution. The outright disregard of proposals, without giving due consideration to their merit, was a matter of great concern to his delegation. However, he took comfort in the fact that his and other delegations had had the courage to support and propose the draft amendments.

Draft resolution A/C.3/67/L.44/Rev.1

58. **Ms. Curković** (Croatia), introducing the draft resolution, said that the text was the result of a comprehensive and in-depth consultation process with all Member States over five rounds of informal consultations. After considering and voting on the proposed amendments to the draft resolution, it was time for the Committee to move forward and take action on the draft resolution as a whole. For the reasons already put forward by the main sponsors, she invited all Member States to vote in favour of the very important resolution.

59. **Mr. Kumar** (India), speaking in explanation of vote before the voting, said that each State had the sovereign right to determine its legal system and

punish criminals accordingly. Article 6, paragraph 2, of the Covenant and subsequent general comments of the Human Rights Committee on the death penalty spoke only of the desirability of abolition. In India, the death penalty was only exercised in the rarest cases, where heinous crimes shocked the society. Furthermore, Indian law provided for all the requisite safeguards, including the right to fair trial and the presumption of innocence. In addition, there were specific legal provisions suspending capital punishment for pregnant women and prohibiting it for juvenile offenders; death sentences must be confirmed by a superior court, and the accused had the right of appeal. The President of India and state Governors had the power to grant pardon or to suspend, remit or commute any sentence. His delegation was unable to support the draft resolution in its current form and would vote against it, as it was contrary to India's statutory law.

60. **Mr. Aisi** (Papua New Guinea) said that while the call by certain countries for a moratorium on and ultimate abolition of the death penalty was a sensitive and divisive issue, the United Nations Charter was unequivocal on the rights of sovereign States to make their own laws. Notwithstanding the respect for human rights enshrined in the Papua New Guinea Constitution and its ratification of a number of international human rights instruments, capital punishment was an integral part of the range of penalties provided for by the country's Criminal Code, available to competent courts in an independent judicial system. It was only reserved for the most serious crimes but had not been carried out for 40 years — even in cases where it had been imposed, the justice system had commuted the sentence to life imprisonment. Unless and until the death penalty was repealed by the national Parliament, it would remain a valid law under its statutes. Consequently, Papua New Guinea would abstain from the voting.

61. **Ms. Alsaleh** (Syria), speaking in explanation of vote before the voting, said that the draft resolution constituted clear interference in the internal affairs of States in violation of the Charter of the United Nations. The call for imposition of a moratorium on the death penalty was in effect a call on States to change their legal systems, which were a product of their historical, cultural, religious and political specificities. Those who were concerned about the human rights of persons sentenced to death should think more about the human rights of victims. The death penalty was a legal matter, not a human rights issue. Her delegation would vote against the draft resolution because it violated the principle of the sovereign equality of Member States and the principle of non-interference in the internal affairs of States as enshrined in the Charter.

62. **Mr. Selim** (Egypt) said that Egypt's sincere attempts to improve the language of the resolution in line with the provisions of existing international human rights instruments and the United Nations Charter had not been heeded. Egypt had sincerely hoped that Member States would respect the relevant international instruments and the great diversity of legal, social, economic and cultural conditions worldwide. It was unfortunate and ironic that during the deliberations, the very delegations that had rejected selective references to relevant international instruments — turning a blind eye to the fact that the draft resolution itself was selective in content and scope — conveniently included such references in other resolutions.

63. A select few had claimed that there was a trend toward the abolition of the death penalty and that the draft resolution had undergone significant substantive changes to accommodate all views. Why, then, had so many States voted in favour of the amendments? The only continuing trend was a departure from all that the Organization held sacred — a trend to impose the perceptions of one side, without any consideration of the concerns voiced by many on the other side. One could only wonder to what end and for how long international cooperation and mutual respect of differences would continue to be undermined while specific standards were imposed on others. His delegation found itself obliged, once again, to vote against the resolution.

64. **Ms. Nguyen** Cam Linh (Viet Nam), speaking in explanation of vote before the voting, said that while her country understood and respected the humanitarian purpose of the moratorium, the death penalty was restricted to the most serious crimes. In those cases, the legal framework provided the requisite procedural safeguards. Viet Nam's legislation also contained provisions for suspension of the death penalty for pregnant women and juveniles and strictly regulated the investigative, prosecution and sentencing processes. After recent reviews of the types of crimes and individuals subject to capital punishment, the Government had reduced the number of offences punishable by death. Viet Nam held that the death penalty was a criminal justice matter, not a human

rights matter and that every State had the irrevocable right to establish its own justice system. Consequently, Viet Nam would abstain from voting.

65. **Ms. Li** (Singapore), speaking in explanation of vote before the voting, recalled that there was no international consensus on the application of the death penalty and it was not prohibited under international law. During the consultations on the draft resolutions, a number of delegations had chosen to reject language from the Charter and denied the sovereign right of Member States to determine their own legal system and penalties, refusing to acknowledge the fact that some countries retained and applied capital punishment only in strict accordance with international law. Delegations that considered the death penalty to be a human rights issue should also consider the right of a society to live in peace and the right to freedom of expression and respect for the diversity of views that they usually held dear. In the absence of consensus, the opinions of some countries should not be imposed on all. However, the rejection of all the proposed amendments could only lead her delegation to conclude that the main sponsors were not genuinely interested in the national and international debate on the death penalty, purportedly championed in the draft resolution. It could not accept such double standards and would therefore vote against it.

66. **Mr. Elbahi** (Sudan), speaking in explanation of vote before the voting, said that it was evident from the voting on the draft amendments that the subject of the resolution was a contentious one. The death penalty should not be included under the topic of human rights. It was a legal matter on which all States had a sovereign right to make their own decisions. States that had chosen to abolish or place a moratorium on the death penalty should not try to impose that choice on other States. The sponsors of the draft resolution had not paid attention to the concerns reflected in the draft amendments, and his delegation would vote against it in its current form.

67. *A recorded vote was taken on draft resolution A/C.3/67/L.44/Rev.1.*

In favour:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Central African Republic, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Mozambique, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, South Sudan, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tunisia, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of).

Against:

Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, China, Democratic People's Republic of Korea, Egypt, Ethiopia, Grenada, Guyana, India, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Kuwait, Libya, Malaysia, Mauritania, Myanmar, Oman, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sudan, Swaziland, Syrian Arab Republic, Trinidad and Tobago, Uganda, United States of America, Yemen, Zimbabwe.

Abstaining:

Afghanistan, Bahrain, Belarus, Cameroon, Comoros, Cuba, Democratic Republic of the Congo, Djibouti, Eritrea, Fiji, Ghana, Guinea, Indonesia, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Maldives, Morocco, Namibia, Nigeria, Papua New Guinea, Republic of Korea, Senegal, Sierra Leone, Solomon Islands, Sri Lanka, Suriname, Thailand, United Arab Emirates, United Republic of Tanzania, Viet Nam, Zambia.

68. *Draft resolution A/C.3/67/L.44/Rev.1 was adopted by 110 votes to 39, with 36 abstentions.*

69. **Ms. Khalidi** (Malaysia) said that Malaysia's participation in the negotiation on the text had been premised on the understanding that while there remained real and substantive differences among delegations on the death penalty, the draft resolution itself represented a vehicle through which such differences could be understood and accepted. It could not be over-emphasised that the application of the death penalty was fully within the purview of national authorities, as clearly recognised by relevant international instruments. Further, the application of the death penalty fell under the framework of crime prevention and criminal justice and therefore must be viewed in that context. She expressed disappointment that rather than recognizing that the death penalty continued to be relevant in many countries, the sponsors appeared to have rolled back the understandings achieved in the resolution adopted by the General Assembly at its sixty-fifth session. Her delegation further regretted that certain partners had seemingly approached the consultations with the intent to isolate and pass judgment on others.

70. In Malaysia, the death penalty was applied only for the most serious crimes and after all legal remedies had been exhausted; the sentence was delivered by the highest courts only, in strict compliance with applicable safeguards. Aware of the growing public interest in the debate, the Government of Malaysia would continue to engage in broad consultations to ascertain public opinion on the issue, in line with its ongoing review of current legislation providing for mandatory application of the death penalty for certain offences. Her delegation had therefore voted in favour of all proposed amendments. Since they had all been rejected, Malaysia had no choice but to vote against the one-sided draft resolution, which painted a less-than-accurate picture of the ongoing debate on capital punishment.

71. **Mr. Adnan** (Indonesia) said that the death penalty remained a part of Indonesia's national jurisprudence and a review by the Constitutional Court had held that it did not conflict with the Constitution. However, there was ongoing public debate on the pros and cons of the implementation of — and a possible moratorium on — the death penalty. Indonesia believed that it was the sovereign right of all countries to develop their own legal system and decide on the application of the death penalty. Many of the paragraphs in the draft resolution were in line with Indonesia's position, particularly with regard to age limitations, the need for transparent debate and the provision of safeguards. For those reasons, Indonesia had abstained from voting.

72. **Ms. Anjum** (Bangladesh) said that the death penalty was part of the legal and criminal justice system of many sovereign countries, applied in accordance with due legal process and safeguards. In Bangladesh, its application was restricted to the most heinous crimes and implemented only after an elaborate, transparent process; extreme caution was exercised at every stage to avoid the miscarriage of justice and convicts sentenced to death could seek presidential pardon. There was no international consensus on retention or abolition of capital punishment — such a decision was the sovereign right of a State. As such, Bangladesh had supported the draft amendments put forward earlier and voted against the resolution as a whole.

73. **Ms. Vinkwolk** (Suriname) said that while the Constitution guaranteed the right to life, capital punishment was still provided for in article 9 of the criminal code of Suriname. That ultimate sentence could only be imposed for the most serious crimes; the last execution dated back to 1927, constituting a de facto moratorium on the use of the death penalty. It was also important to note that the death penalty was no longer mentioned as the highest form of punishment in the draft revision of the criminal code, which had already been approved by the Council of Ministers. However, as the mandatory opinion of the advisory council and its subsequent approval in parliament were pending, the death penalty could not yet be abolished. For those reasons, Suriname had abstained.

74. **Mr. Hisajima** (Japan) said that under Japan's legal system, the death penalty only applied to the most serious crimes; it was not imposed for offences committed by persons under the age of 18 and suspended on account of pregnancy or insanity. The Government published relevant data, including the number of persons sentenced to death and the number of executions carried out. The system thus complied with the international conventions to which Japan adhered and was applied in accordance with the due process of law. Japan was of the view that it was up to each Member State to take decisions on issues concerning the use of the death penalty, based on

thorough consideration of all the factors bearing on the issue, including public opinion and the need for holistic balance in national criminal justice policy.

75. Retention or abolition was a high-profile issue affecting the foundation of criminal justice systems. Given the diversity of public opinion among Japanese citizens and the fact that atrocious crimes would continue to be committed, the Government considered it difficult to abolish the death penalty immediately. There was no international consensus on abolishing capital punishment and Japan deeply regretted the sponsors' decision to propose the resolution, which unilaterally called upon States to establish a moratorium despite the strong objection of retentionist States to its basic orientation seeking abolition. For those reasons, Japan had voted against the resolution.

76. **Mr. Achgalou** (Morocco) said that his country had upheld a de facto moratorium on the death penalty since 1993. Like other countries, Morocco had engaged in democratic dialogue on the usefulness of retaining the death penalty and had convened several meetings to allow debate in Government and civil society. The richness and variety of opinions had enabled the adoption of a clear and coherent position. With regard to international cooperation in the field of criminal justice, particularly pertaining to requests for the extradition of criminals, Morocco had always provided guarantees that detainees would not be executed. In the context of the sharing of good practices outlined in paragraph 5 of the resolution, Morocco had recently hosted a regional congress on the death penalty jointly organized by international and national human rights organizations. The ongoing revision of Moroccan criminal code took into account the need to reduce the number of offences carrying the death penalty. For those reasons, Morocco had abstained from voting on the draft resolution and all the proposed amendments thereto.

77. **Mr. Amorós Núnez** (Cuba) said that while the death penalty was included in Cuban legislation, its application was exceptional and ordered by the competent court only for a small number of serious offences and regulated by a wide range of safeguards in strict compliance with United Nations provisions. Life sentences were prescribed as an alternative. The conditions for abolition existed, based on Cuba's ethical convictions and profound sense of justice and humanity. However, abolition would have to go hand in hand with an end to American antagonism of Cuba, which would allow the country to progress economically and socially, free from any threat to its sovereignty. Cuba recognized the efforts made to abolish capital punishment, but recalled that the specificities of each country, popular will and external threats influenced such decisions. Cuba had not applied the death penalty since 2003 and there were no detainees on death row — in 2009 all death sentences had been commuted to 30-year or life prison sentences.

78. **Mr. Selim** (Egypt) said that although his delegation had voted against the resolution, Egypt strongly believed that it remained the obligation of all retentionist States to ensure that the death penalty was imposed only for the most serious crimes and only pursuant to a final judgment rendered by a competent court of law, within the application of the due process of law. International efforts should focus on strengthening commitment to preventing arbitrary deprivation of life.

79. The draft resolution overlooked the fact that a negotiated legal instrument should only be changed or reinterpreted through negotiations and that no single interpretation should be forced on the international community. Furthermore, no instrument could be superseded by a General Assembly resolution; all resolutions should comply with international law and international human rights instruments. Attempts to ignore selectively such a well-established principle in the current resolution was proof of the flagrant application of double standards and would create an indelible precedent in International Law that would be detrimental to common efforts to promote the universal respect and implementation of International Human Rights Law. His delegation was convinced that the diverging legal and human rights arguments could only be reconciled through a comprehensive multilateral debate encompassing all aspects of the right to life.

80. **Ms. Robl** (United States of America) said that there was a wide divergence of views on the abolition of or moratorium on the continued use of the death penalty, both within and among nations. Her delegation appreciated that the resolution set forth policy objectives shared by advocates of abolition; however, the ultimate decision must be taken through domestic democratic processes of individual Member States, consistent with their international obligations. That was the underlying premise of article 6 of the Covenant and its Optional Protocol, as well as the amendment to the

resolution proposed by Singapore. Capital punishment was clearly not prohibited by international law.

81. United States legislation prohibited methods of execution that would constitute cruel and unusual punishment. Recent decisions by the Supreme Court had narrowed the class of individuals and types of offences that might be subject to the death penalty. The United States of America was committed to complying with its international obligations and strongly urged other countries retaining the death penalty to apply it only in full compliance with international law.

82. All States, particularly supporters of the resolution, should focus their attention towards addressing and preventing human rights violations that might result from the improper use of capital punishment and ensure that it was not applied in an extrajudicial, summary or arbitrary manner, with fair trials before a competent, independent court and due process. States should evaluate the class of individuals and offences subject to the death penalty and methods of execution that inflicted undue pain must be strictly prohibited. Her delegation hoped that the continued focus by supporters of the resolution on advancing their goals for progressive abolition of capital punishment would not divert critical attention from existing international obligations of States with respect to the manner of imposition of the death penalty worldwide.

83. **Mr. Ntwaagae** (Botswana) said that he wished to reiterate his delegation's disappointment with the rejection of all of the amendments proposed. A balanced reflection of views from both sides of the issue was important and, in that regard, Botswana would continue to vote against the resolution as long as the main sponsors failed to take into account the divergence of views. For many countries, the death penalty was a criminal justice issue and its imposition was restricted to certain crimes in accordance with sovereign law; unlike the human rights violations that continued in many parts of the world, capital punishment was not prohibited by international law. There was no international consensus on the linkage between the death penalty and human rights.

84. Capital punishment clearly remained a matter of jurisprudence and making it a human rights issue was unacceptable. While his delegation respected the decision of countries that had abolished or established a moratorium on the death penalty, it was concerned that such countries showed no inclination to reciprocate. The decision to retain or abolish capital punishment must be made by States, in line with the opinions of its people. It was therefore improper to attempt to create and impose through a General Assembly resolution a decision that should be within the remit of domestic jurisdiction. The death penalty was applied in Botswana in limited circumstances and with strict observance of safeguards. The country was proud of its record of sustained democracy, good governance and respect for the rule of law, as well as the promotion and protection of the fundamental rights of its people. While Botswana was open to continued debate on the issue, it believed that the death penalty must be viewed from a much broader perspective based on mutual respect and cooperation.

The meeting rose at 6.05 p.m.